

**MINUTES OF  
FAIRFAX COUNTY PLANNING COMMISSION  
WEDNESDAY, JUNE 1, 2005**

UNAPPROVED  
JUNE 20, 2005

PRESENT: John R. Byers, Mount Vernon District  
Frank A. de la Fe, Hunter Mill District  
Janet R. Hall, Mason District  
Suzanne F. Harsel, Braddock District  
James R. Hart, Commissioner At-Large  
Nancy Hopkins, Dranesville District  
Ronald W. Koch, Sully District  
Kenneth A. Lawrence, Providence District  
Peter F. Murphy, Jr., Springfield District  
Laurie Frost Wilson, Commissioner At-Large

ABSENT: Walter L. Alcorn, Commissioner At-Large  
Rodney L. Lusk, Lee District

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The meeting was called to order at 8:19 p.m. by Chairman Peter F. Murphy, Jr., in the Board Auditorium of the Fairfax County Government Center at 12000 Government Center Parkway, Fairfax, Virginia 22035.

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**COMMISSION MATTERS**

Chairman Murphy noted that there would be no Planning Commission meetings next week since the Celebrate Fairfax! Fair would be held at the Government Center on Friday, June 10th through Sunday, the 12<sup>th</sup>. He said for the 24<sup>th</sup> year, the Commission would be selling soft drinks at the fair. A commercial promoting the fair was then broadcast.

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Commissioner de la Fe reminded Commissioners that the Transportation Committee would meet tomorrow evening at 7:30 p.m. in the Board Conference Room to receive an update on the Transportation element of the Comprehensive Plan.

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On behalf of Commissioner Alcorn, Commissioner Wilson announced her intent to defer the public hearing on the Chesapeake Bay Map Amendments, from Thursday, June 2, 2005 to Thursday, June 16, 2005.

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FS-Y05-11 - T-MOBILE, 6700 Centreville Road

Commissioner Koch MOVED THAT THE PLANNING COMMISSION CONCUR WITH THE "CONSENT AGENDA ITEM" FOR FS-Y05-11, T-MOBILE, 6700 CENTREVILLE ROAD.

The motion carried unanimously with Commissioners Alcorn and Lusk absent from the meeting.

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Architectural Renderings for RZ 2003-MV-062 - EASTWOOD PROPERTIES

Commissioner Byers MOVED THAT THE PLANNING COMMISSION ADMINISTRATIVELY APPROVE THE ARCHITECTURAL RENDERINGS SUBMITTED BY EASTWOOD PROPERTIES PURSUANT TO THE PROFFERS ASSOCIATED WITH THE PRIOR APPROVAL BY THE BOARD OF SUPERVISORS OF RZ 2003-MV-062.

Commissioners Hall and Lawrence seconded the motion which carried unanimously with Commissioners Alcorn and Lusk absent from the meeting.

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SE 2005-PR-003 - SUNOCO, INC. (R&M) (Decision Only)

(The public hearing on this application was held on May 12, 2005. A complete verbatim transcript of the decision made is included in the date file.)

Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF SE 2005-PR-003, SUBJECT TO THE PROPOSED DEVELOPMENT CONDITIONS DATED MAY 5, 2005.

Commissioner Byers seconded the motion which carried unanimously with Commissioners Alcorn and Lusk absent from the meeting.

Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A WAIVER OF TRANSITIONAL SCREENING AND BARRIER REQUIREMENTS ON THE NORTHERN AND WESTERN BOUNDARIES.

Commissioner Byers seconded the motion which carried unanimously with Commissioners Alcorn and Lusk absent from the meeting.

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FS-H04-52 - NEXTEL COMMUNICATIONS, INC., 11975 Lake Newport Road

Commissioner de la Fe MOVED THAT THE PLANNING COMMISSION CONCUR WITH THE DETERMINATION THAT THE TELECOMMUNICATIONS FACILITY PROPOSED BY NEXTEL ON A 130-FOOT TALL ELECTRICAL TRANSMISSION POLE LOCATED AT 11975 LAKE NEWPORT ROAD, IS SUBSTANTIALLY IN ACCORD WITH RECOMMENDATIONS OF THE COMPREHENSIVE PLAN, AND SHOULD BE CONSIDERED A "FEATURE SHOWN" PURSUANT TO *VIRGINIA CODE* SECTION 15.2-2232, AS AMENDED.

Commissioners Lawrence and Byers seconded the motion which carried unanimously with Commissioners Alcorn and Lusk absent from the meeting.

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ORDER OF THE AGENDA

Secretary Harsel established the following order of the agenda:

1. SE 2005-MV-005 - TRUSTEES OF EPIPHANY LUTHERAN CHURCH OF MT. VERNON
2. RZ 2003-PR-026/FDP 2003-PR-026 - ELM STREET DEVELOPMENT, INC., AND JCE, INC.  
PCA 76-P-118 - ELM STREET DEVELOPMENT

This order was accepted without objection.

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SE 2005-MV-005 - TRUSTEES OF EPIPHANY LUTHERAN CHURCH OF MT. VERNON - Appl. under Sect. 3-204 of the Zoning Ordinance to permit expansion of an existing place of worship with a nursery school. Located at 5521 Old Mill Rd. on approx. 2.98 ac. of land zoned R-2. Tax Map 110-1 ((1)) 4A. MOUNT VERNON DISTRICT. PUBLIC HEARING.

Lynne Strobel, Esquire, with Walsh, Colucci, Lubeley, Emrich & Terpak, PC, reaffirmed the affidavit dated March 1, 2005. There were no disclosures by Commission members.

Commissioner Byers asked that Chairman Murphy ascertain whether there were any speakers for this application. There being none, he asked that presentations by staff and the applicant be waived and the public hearing closed. No objections were expressed; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Byers for action on this case. (A verbatim excerpt is in the date file.)

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Commissioner Byers MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF SE 2005-MV-005, SUBJECT TO THE PROPOSED DEVELOPMENT CONDITIONS DATED MAY 25, 2005.

Commissioner Lawrence seconded the motion which carried unanimously with Commissioner Hall not present for the vote; Commissioners Alcorn and Lusk absent from the meeting.

Commissioner Byers MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A MODIFICATION OF THE TRANSITIONAL SCREENING REQUIREMENTS AND WAIVER OF THE BARRIER REQUIREMENTS ALONG ALL BOUNDARIES, IN FAVOR OF THE EXISTING CONDITIONS, WITH SUPPLEMENTAL PLANTINGS AS SHOWN ON THE SE PLAT.

Commissioner Lawrence seconded the motion which carried unanimously with Commissioner Hall not present for the vote; Commissioners Alcorn and Lusk absent from the meeting.

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RZ 2003-PR-026/FDP 2003-PR-026 - ELM STREET DEVELOPMENT, INC., AND JCE, INC. - Appl. to rezone from R-1 and R-2 to PDH-2 to permit residential development at a density of 1.99 dwelling units per acre (du/ac) and approval of the conceptual and final development plans. Located on the W. side of Cedar La., N. and W. of Wedderburn La. on approx. 12.05 ac. of land. Comp. Plan Rec: residential 2-3 du/ac. Tax Map 39-3 ((1)) 15-18, 18A, 18B, 18C, 18D, 18E, 32, 33A, 33B, 33C and 39-3 ((38)) A. (Concurrent with PCA 76-P-118.) PROVIDENCE DISTRICT.

PCA 76-P-118 - ELM STREET DEVELOPMENT - Appl. to amend the proffers for RZ 76-P-118 previously approved for residential development to permit deletion of land area. Located on the S. side of Ninovan Rd. and N. of the terminus of Augustus Ct. on approx. 29,306 sq. ft. of land zoned R-2. Comp. Plan Rec: 2-3 du/ac. Tax Map 39-3 ((38)) A. (Concurrent with RZ/FDP 2003-PR-026.) PROVIDENCE DISTRICT. JOINT PUBLIC HEARING.

Gregory Riegle, Esquire, with McGuire Woods LLP, reaffirmed the affidavit dated May 10, 2005. There were no disclosures by Commission members.

Cathy Belgin, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of the applications.

Mr. Riegle noted that his letter dated June 1, 2005, with exhibits addressing critical issues had been distributed to the Commission, a copy of which is in the date file. He pointed out that the Planning Commission had deferred the decisions on two rezoning applications filed by the applicant on May 20, 2004, to allow more time to consider citizen concerns and to amend the applications as needed to resolve issues. He stated that the current applications had been amended to: decrease density; increase tree save, open space, and buffering; improve access ranges; maintain stormwater management; and restore erosion conditions. Mr. Riegle indicated that issues involving the protection of environmental features and inclusion of buffers had been highlighted in the Commission's recommendation to the Board of Supervisors on Area Plan Review (APR) nomination, APR-04-II-9V, affecting the subject property. He explained that the applicant had committed to 37 percent of open space; doubled the tree cover requirements; provided extremely strong tree preservation proffers; and committed to a permanent 40-foot wide buffer along the Washington and Old Dominion (W&OD) Trail. He noted that environmental preservation and tree save would be better implemented through this rezoning rather than by-right development.

Mr. Riegle responded to questions from Commissioner Wilson regarding the dedicated buffer along the W&OD Trail, property lines, adjacent properties, and trail right-of-way as depicted on the Contextual Vicinity Map included in the exhibits.

At Commissioner Hart's request, Mr. Riegle agreed to meet with staff to improve the language in Proffer Numbers 22 and 34 concerning demolition of existing structures and its impact on trees.

Commissioner Hart recommended that a disclosure about sun rooms and screen porches be included in the homeowner association documents as described in Proffer Number 50 since the Zoning Ordinance did not permit these extensions into the minimum required yard. Mr. Riegle responded that the applicant would confirm the 20-foot minimum rear yard and ensure that all contingencies would be included in the disclosure.

Chairman Murphy called the first listed speaker and recited the rules for public testimony.

Deborah Reyher, 8628 Redwood Drive, Vienna, Vice President of the Oakdale Park Civic Association, requested that the public hearing be reopened after the Board of Supervisors made its recommendation on the APR nomination. She presented a petition signed by 750 persons who asked that the Planning Commission and the Board of Supervisors approve the APR nomination in order to assure protection of the W&OD Trail. (The original petition is in the date file.) She voiced her objection to the removal of century-old trees, but said she was not opposed to development of the subject property. Ms. Reyher expressed concern about the declassification of the stream on the property and its adverse impact on the Chesapeake Bay and wildlife, noting that it would be permanent. She stated that the declassification had been based only on photographic evidence and a one time observation of nonmoving water and suggested that staff visit the site and compare conditions of the stream with the classification protocol. She noted the absence of an adequate tree survey and claimed that the applicant was not actually providing 37 percent open space since development in the Resource Protection Area (RPA) was prohibited.

Edward Blum, 2417 Luckett Avenue, Vienna, spoke in favor of the proposed development because it would include only 24 homes and provide sole access from Cedar Lane, buffers to the surrounding homes and the W&OD Trail, improved stormwater management, and an overall benefit to the neighborhood. (A copy of his remarks is in the date file.)

Jane Leppin, 8513 Wedderburn Lane, Vienna, indicated her support of the applications, citing improved stormwater management; essential erosion and pollution control for the Accotink Creek Watershed; tree save, open space, and habitat conservation; additional parkland for increased recreational opportunities; an access trail; and features such as history and information boards, a trail hut, and water fountains along the W&OD Trail.

Richard Kuhlthau, 2333 Augustus Court, Vienna, representing the Oak Ridge Civic Association, submitted letters signed by 29 residents of the Oak Ridge, Wedderburn Station, and Oakdale Park subdivisions in support of the proposed development. (The original letters are in the date file.) He also expressed support of the Commission recommendation on the APR nomination. Mr. Kuhlthau said concerns had been adequately addressed and further reduction in the number of houses would likely improve the overall acceptance by the larger community. He recommended the addition of adequate measures and penalties to ensure protection of the tree save areas.

Lewis Dozier, 8535 Aponi Road, Vienna, spoke in favor of the proposed development, noting that road improvements would be made.

Philip Saunders, 8150 Woodland Court, Dunn Loring, aligned himself with the position of Ms. Reyher. He expressed concern about the fairness and objectivity of the Comprehensive Plan review process, noting that this public hearing had not been deferred until after the Board of Supervisors had voted on the APR nomination. He recommended that the Commission reaffirm the community's participation in the land use process by replacing specific provisions in the nomination desired by the citizens which Commissioner Lawrence had taken out. Addressing the subject applications, Mr. Saunders emphasized that the proffers should ensure that large trees and buffers would be preserved.

Commissioner Hall commented that it was unusual for a rezoning application to be heard before a decision had been made on an APR nomination, but pointed out that the decision would be deferred until a final determination had been made by the Board of Supervisors on the APR item. Mr. Saunders responded that citizens' expectations had been raised during the APR process, but now they were concerned and disappointed that their desires would not be reflected in the amended Comprehensive Plan.

In response to a question from Commissioner Hall, Ms. Belgin explained that the current Plan recommended a density range of two to three dwelling units per acre and that, if approved, the APR nomination would lower the density range to one to two dwelling units. She noted that the rezoning application proposed a density of 1.99 dwelling units per acre.

Responding to a question from Commissioner Hart, Ms. Belgin said that she was not aware of any procedural regulation that prohibited the Board of Supervisors from amending the Plan subsequent to the filing of a rezoning application.

Elaine Wolf Komarow, 2327 Malraux Drive, Vienna, stated that the specific provisions in the APR nomination desired by the citizens had been weakened or removed by Commissioner Lawrence and said she hoped that the Board of Supervisors would replace the language. She noted that if the subject property was developed by-right, it would permit only 13 houses and have less of an impact on Cedar Lane. Ms. Komarow expressed opposition to the proposed development due to removal of large trees along Cedar Lane; destruction of trees and wetlands along the W&OD Trail; adverse impacts on the Chesapeake Bay, bird habitat, and wildlife; detrimental stormwater management; incompatibility with the surrounding community; and inadequate distance between the houses and the W&OD Trail.

In response to a question from Commissioner de la Fe, Ms. Belgin explained that by-right development only needed to meet the Zoning Ordinance requirements and was exempt from tree preservation proffers and exterior buffering requirements.

Commissioner Hall rebutted Ms. Komarow's comment that Commissioner Lawrence had weakened the APR language desired by the citizens and said he had only established guidance in the Comprehensive Plan. She pointed out that there was no set buffer along the W&OD Trail and nothing prevented homeowners from clearing their backyards and constructing a fence or shed which would change the character of the trail.

Alison Dyer, 8621 Redwood Drive, Vienna, noted that she was the nominator of APR-04-II-9V. She requested that this public hearing be reopened after the Board of Supervisors voted on the APR nomination.

Karen Hunt, 2431 Villanova Drive, Vienna, spoke in opposition to the applications due to insufficient buffer along the W&OD Trail; decreased house setbacks; widening of Cedar Lane and extension of a middle turn lane; hazardous traffic conditions; declassification of the perennial stream; intrusion into the RPA; and a prior Chesapeake Bay Exception request. She noted that Virginia Department of Transportation studies did not warrant the installation of a crossing signal on Cedar Lane. She suggested that a dam breach analysis be performed on the stormwater detention pond and the tree save proffers be tightened. Ms. Hunt said the applicant had originally submitted an unrealistic and unacceptable plan, but now referenced the modifications as generous concessions. She claimed that the rezoning process would not properly address the outstanding issues and inconsistencies in the proposal. She said she had seen APR nominations tailored by developers for a particular development concept and requested that the decision be deferred until after the APR nomination had been voted on.

Rebecca Cate, 8119 Westchester Drive, Vienna, representing the Dunn Loring Gardens Civic Association, noted that her community had been developed by-right and had a 200-foot setback that had been undisturbed for over 40 years.

In response to a question from Chairman Murphy, Ms. Cate said that she was not necessarily recommending the property be developed by-right, but that she would like to see a more reasonable development plan because she did not believe that either cluster or Planned Development Housing (PDH) development would save more trees.

Continuing her presentation, Ms. Cate recognized those who advocated an improved development plan to preserve the unique character of the area. She voiced her objection to primary access from and widening of Cedar Lane, noting that it would negatively impact safety conditions. She explained that specific provisions in the APR item regarding buffers, stream protection, tree save, and W&OD Trail preservation had been deleted and tailored to the proposed development plan. Ms. Cate recommended that the proposed language and design meet previous proffers to preserve the character of the area; protect the W&OD Trail from encroachment; protect the environmentally sensitive area once defined as a RPA; preserve trees; improve the character of the trail with 75-foot setbacks; and enhance the fabric of the existing community.



Responding to a question from Commissioner Hart, Ms. Cate claimed that the Zoning Ordinance enforced the same tree save requirements for both rezoning and by-right redevelopment.

In response to another question from Commissioner Hart, Ms. Belgin explained that the Zoning Ordinance did not prohibit the removal of trees provided there was no tree save proffer or conservation easement on the property and there was 20 percent tree cover.

Mike Cavin, 8119 Westchester Drive, Vienna, said it was unfair to assume that by-right development could not save trees or that either cluster or PDH development could save more trees. He suggested that the tree preservation proffers be tightened and a tree survey be conducted. He indicated that the APR nomination language desired by the community was weakened and incompatible with the proposed plan.

Commissioner Hall noted that landowners were not obligated to save trees through by-right development, but said that most landowners saved trees because they were beneficial. Mr. Cavin responded that although cluster development required 25 percent open space, which included a stormwater management pond, adequate tree save was not guaranteed.

Stuart Zimmerman, 8523 Aponi Road, Vienna, spoke in favor of the proposal, noting that it would limit traffic, preserve the quality of life and the character of the existing community, allow Augustus Court to be maintained as a cul-de-sac, and provide direct access from Cedar Lane. He said he concurred with the recommendation to postpone action on the applications until the Board of Supervisors had voted on the APR nomination.

Renata Wade, 2231 Richelieu Drive, Vienna, noted that the proposed stormwater management would correct sediment flow problems and downstream erosion caused by the perennial stream. She said the stream should be included in watershed studies to determine its classification. Ms. Wade expressed support of the recommendation to defer the decision, noting that it would allow more time to tighten the proffers. She stated that the proposal provided the opportunity to seek inventive ways of protecting the RPA, conservation easements, and other environmentally sensitive areas.

David Knapp, 2328 Malraux Drive, Vienna, expressed support for the deferral of the decision until after the APR nomination had been voted on by the Board of Supervisors. He said he was not opposed to fewer homes on larger lots, but he voiced opposition to the proposed plan due to excessive density, undersized setbacks from the W&OD Trail, inadequate Chesapeake Bay protection, incompatibility with the existing community, and destruction of Fairfax County's heritage.

Charles Sheffield, 8417 Reflection Lane, Vienna, also opposed the applications due to insufficient buffering along the W&OD Trail.

Lawrence Nielsen, co-owner of 2390 Cedar Lane, Vienna, noted that he and the other owners had entered into a contract to sell the property to JCE, Incorporated, in August 2002. He indicated his support of the proposal, citing substantial buffers and tree save, adequate stormwater management, road improvements, and beneficial architectural commitments. He stated that the applicant had cooperated reasonably to address legitimate concerns raised by staff and adjoining neighbors and said two land use plans had been recommended for approval by staff.

Dottie Walsh, 2329 Addison Street, Vienna, expressed opposition to the applications due to excessive density, destruction of the existing community, and devastation of natural resources. She suggested that the Commission pay attention to issues that would affect the legacy that should be left for future generations.

Steven Ordun, 8603 Locust Drive, Vienna, President of the Oak Ridge Citizen Association, spoke in opposition to the proposed plan, noting that it had hardly changed over the past two years. He congratulated the Wedderburn Neighbors Steering Committee for providing outreach to the neighbors and advocating a compatible development plan to meet the guidelines in the Comprehensive Plan. Mr. Ordun recommended that the Planning Commission defer consideration of any new development plan until after the APR nomination had been voted on and that the new development plan uphold the original APR nomination language.

Susan Laufer, 2421 Rockbridge Street, Vienna, spoke in opposition to the declassification of the perennial stream due to lack of viable methodology, scientific evidence, credible technical input, and public participation. She noted that citizens could not challenge this decision and said this violated several aspects of the federal and State Water Quality Standards Program. Ms. Laufer indicated that she had sent her concerns to the Environmental Protection Agency and Virginia Department of Environmental Quality to obtain technical input on the issue of Water Quality Standards and how they applied in this case. She voiced her support for deferring the decision until after the decision on the APR nomination had been made. (A copy of her remarks is in the date file.)

David Levy, 1107 Redwood Drive SE, Vienna, stated that the APR nomination process had not been adequately respected. He recommended that a tree study be conducted and specific APR language regarding preservation of amenities and the stream be supported by the applicant. He claimed that nothing had been accomplished at meetings with the developer and only minimal concessions had been made. He noted that prior tree preservation proffers were being ignored and said he was disappointed that Commissioner Lawrence had revised the original APR nomination language.

There being no more speakers, Chairman Murphy called for a rebuttal statement from Mr. Riegle, who declined.

In response to a question from Commissioner Hall, Ms. Belgin said that the proposed proffers would supersede the prior ones if the applications were approved.

Responding to questions from Commissioner Hall, Mr. Riegle noted that the tree survey was available and said the applicant had focused tree preservation in areas where the trees had the best quality and size. Commissioner Hall requested that the applicant provide the tree survey to Mr. Levy.

In response to further questions from Commissioner Hall, Ms. Belgin indicated that the tree survey data had been included in the Conceptual Development Plan/Final Development Plan and said the new proffers incorporated the prior proffers. She explained that Department of Public Works and Environmental Services staff had determined that the stream should be reclassified and had attended meetings held in Providence District Supervisor Linda Smyth's Office with Commissioner Lawrence and County Attorney's Office staff to verify that the reclassification had been done in conformance with current procedures.

Responding to questions from Commissioner Wilson, Mr. Riegle stated that Proffer Number 17 permitted the Urban Forester to further restrict the limits of clearing during the site plan and subdivision review process. He noted that the reclassified portions of the stream would remain undisturbed, not be subject to RPA requirements, and would not lie beneath the proposed homes. Mr. Riegle assured the Commission that the applicant had disagreed with the reclassification of the stream before the applications had been filed. He explained that the minimum yard and minimum setback commitments applied to the typical lot layout and said the applicant would revise the notes on page 2 of the Generalized Development Plan to make them clearer, noting that they would not supersede the typical lot layout.

At Commissioner Wilson's request, Mr. Riegle agreed to revise the language under Note Number 27 to reflect that the minimum yards would also be in conformance with the typical lot layout.

Commissioner Hart inquired as to whether the Commission would be considering the declassification of the subject stream and RPA when it voted on the Chesapeake Bay Map Amendments. Ms. Belgin responded that she did not know, but would find out the answer to his question. Commissioner de la Fe pointed out that the staff report on the Chesapeake Bay Map Amendments contained a discussion of the subject applications.

There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Lawrence for action on this case. (A verbatim excerpt is in the date file.)

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RZ 2003-PR-026/FDP 2003-PR-026 - ELM STREET  
DEVELOPMENT, INC., AND JCE, INC.  
PCA 76-P-118 - ELM STREET DEVELOPMENT

June 1, 2005

Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION DEFER  
DECISION ON RZ 2003-PR-026, FDP 2003-PR-026, AND PCA 76-P-118, TO A DATE  
CERTAIN OF JULY 28, 2005, WITH THE RECORD TO REMAIN OPEN FOR WRITTEN  
COMMENT.

Commissioner Byers seconded the motion which carried unanimously with Commissioners  
Alcorn and Lusk absent from the meeting.

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The meeting was adjourned at 11:02 p.m.  
Peter F. Murphy, Jr., Chairman  
Suzanne F. Harsel, Secretary

Audio and video recordings of this meeting are available at the Planning Commission Office,  
12000 Government Center Parkway, Suite 330, Fairfax, Virginia 22035.

Minutes by: Kara A. DeArrastia

Approved on: \_\_\_\_\_

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Linda B. Rodeffer, Clerk to the  
Fairfax County Planning Commission